

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RENEE BISHOP-MCKEAN,

Plaintiff,

V.

JUSTIN MURRAY et al.,

Defendants.

CASE NO. 3:24-cv-05199-TL-GJL

ORDER DECLINING TO ADOPT REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of United States

Magistrate Judge Grady J. Leupold (Dkt. No. 4) and Plaintiff Renee Bishop-McKean's Objection to Report and Recommendation (Dkt. No.5). Having reviewed the Report and Recommendation, Plaintiff's objection, and the remaining record, the Court DECLINES TO ADOPT the Report and Recommendation and SUSTAINS the objection.

A district court has jurisdiction to review a magistrate judge's report and recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). The district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations

1 to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (“The
 2 district judge must determine de novo any part of the magistrate judge’s disposition that has been
 3 properly objected to.”). “The district judge may accept, reject, or modify the recommended
 4 disposition; receive further evidence; or return the matter to the magistrate judge with
 5 instructions.” Fed. R. Civ. P. 72(b)(3); *accord* 28 U.S.C. § 636(b)(1). A party properly objects
 6 when the party files “specific written objections” to the report and recommendation as required
 7 under Federal Rule of Civil Procedure 72(b)(2). Plaintiff filed a timely objection to the report
 8 and recommendation.

9 Judge Leupold recommended this case be dismissed because Plaintiff failed to respond to
 10 the Clerk of Court’s letter (Dkt. No. 2) stating that Plaintiff’s Application to Proceed *In Forma*
 11 *Pauperis* (“IFP”) failed to include the required prison trust account statement. Dkt. No. 1.
 12 Plaintiff acknowledges that the required statement was omitted from the IFP application and
 13 explains that Plaintiff requested the law librarian submit the required documentation to the Court.
 14 Dkt. No. 5 at 1. The law librarian told Plaintiff that the paperwork had been submitted. *Id.*
 15 Plaintiff’s objection includes a copy of the prison account statement dated March 15, 2024, after
 16 the deficiency letter sent by the Clerk of the Court but before the due date listed in the letter. *Id.*
 17 at 7–14. As it appears that Plaintiff did try to submit the required information in a timely manner,
 18 the Court will sustain Plaintiff’s objection.

19 For the foregoing reasons, the Court DECLINES TO ADOPT the Report and
 20 Recommendation and SUSTAINS Plaintiff’s objection.

21 Dated this 6th day of May 2024.

22 
 23 _____
 24 Tana Lin
 United States District Judge